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FIRM and AFFILIATE OFFICES

ERIC R. BRESLIN
DIRECT DIAL: +1 973 424 2063
PERSONAL FAX: +1 973 556 1552
E-MAIL: erbreslin@duanemorris.com

www.duanemorris.com

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June 30, 2014

VIA ECF

Hon. Laura Taylor Swain
United States District Judge
Southern District of New York
500 Pearl Street
NY NY 10007-1312

Re: United States v. Bonventre, et. al., 10-cr-228 (LTS)

Dear Judge Swain:

We write with regard to the timing of the sentencing and forfeiture procedures. First, we join in Mr. Krantz's objection to the government's proposed forfeiture proceedings. Late last week, the government proposed moving the defense's deadline to respond to its preliminary order of forfeiture forward by two weeks. The government's procedure would require the defendants to put together a response to a detailed and complex forfeiture application over the July 4th weekend, at the exact same time we will be trying to finalize our sentencing submission. It is simply not possible for us to give appropriate time and attention to both these submissions under such a schedule, particularly considering the complex issues we anticipate will be inherent in both. Also, it is simply not fair to spring such a tight deadline on the defense on such short notice, especially over a holiday weekend.

Furthermore, the timing of the Pre-Sentence Report has now become an issue. Pursuant to the Court's order, the final pre-sentence report is due today, June 30. (Tr., 12,203.) As the Court may recall, the Court set a July 7 control date so as to allow defense counsel to have a week with the pre-sentence report before our sentencing memorandum's due date of July 8, 2014 (three weeks before Ms. Crupi's sentencing). Probation has informed us that we may not have the pre-sentence report until July 7, one day before our sentencing memorandum is due to the Court.

Duane Morris

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We note that we did not receive the draft pre-sentence report until June 18, twelve days before the final report was due. There was a problem with that file and, while we could read it, we could not print it out or make comments. It was not until Thursday, June 19 that we received a workable copy. We sent our objections to probation exactly one week later on Thursday, June 26. This past Saturday, Probation informed us that we might not have the final pre-sentence report until July 7. (The relevant email chain is attached).

Probation's schedule will leave us precisely one day to modify and adjust our sentencing submission to conform to the final PSR. In a case of this complexity, containing, as it does, numerous legal issues, this is just not a reasonable deadline. It is also not a deadline ordered by the Your Honor.

The Court set this schedule on March 24, 2014. It was a schedule that built in ample time for the draft pre-sentence report, the incorporation of comments and objections, and the submission of a final report while still providing the defendants and the government a reasonable briefing schedule for pre-sentence submissions. That schedule has been entirely disrupted. We note that by sending the draft PSR on June 18, Probation did not even afford enough time for fourteen day objection period usually allotted to a defendant. June 18 is a mere twelve days from June 30. Mindful of the Court's schedule, we did our best to get our objections in quickly, although Ms. Geller and I were on trial in another matter in state court in New Jersey. We expected that Probation would work quickly to meet its Court-ordered deadline. Its failure to do so has put us in a very difficult position.

As a result of Probation's failure to meet its deadline, we respectfully request that the Court move the entire sentencing schedule back at least one week. This will make the defense sentencing submissions due a fair period after service of the final PSR, as originally contemplated by the Court. We also respectfully request that the government's proposed forfeiture procedure be rejected.

Respectfully Submitted,

/s/
Eric R. Breslin

cc: All counsel (*via ECF*)

Geller, Melissa S.

From: Breslin, Eric R.
Sent: Monday, June 30, 2014 9:53 AM
To: 'Schwartz, Matthew (USANYS)'; Zach, John (USANYS) (John.Zach@usdoj.gov); Jackson, Randall (USANYS) (Randall.Jackson@usdoj.gov); Andrew Frisch (afrisch@andrewfrisch.com); Amanda Bassen (abassen@andrewfrisch.com); garyvillanueva@aol.com; Roland Riopelle; Jeremy Sporn (jsporn@andrewfrisch.com); lkantz@krantzberman.com; Kimberly Yuhas (kkyuhas@krantzberman.com); gmehler@mehlerlaw.com; Sarah Lum (sarahjilum@gmail.com)
Subject: FW: Message from "RNP330319"

Counsel:

Timing is becoming a problem for us. We got our draft PSR on June 19th, a day late. We got our comments to Mr. Ferrall on June 26th. He now advises that the final PSR will not be received possibly until July 7th, which is one day before our sentencing memo is due. This is just nor practical or particularly fair and we are going to raise this matter this morning with the Court. We are going to ask that the schedule be moved back a week, at least. Please advise as to the government's position.

From: Christopher.Ferrall@nysp.uscourts.gov [mailto:Christopher.Ferrall@nysp.uscourts.gov]
Sent: Saturday, June 28, 2014 1:46 PM
To: Breslin, Eric R.
Subject: FW: Message from "RNP330319"

Dear Mr. Breslin,

Please be advised that the final presentence report on Joann Crupi will be sent to you no later than July 7, 2014.

Sincerely,

Christopher T. Ferrall
U.S. Probation Officer

(Mailing Address) 500 Pearl Street, 7th Floor North
New York, NY 10007

(Office Address) 233 Broadway, 15th Floor
New York, NY 10279

phone - 212-805-5119
fax - 212-805-0047
christopher_ferrall@nysp.uscourts.gov

-----"Breslin, Eric R." <ERBreslin@duanemorris.com> wrote: -----

To: "Christopher.Ferrall@nysp.uscourts.gov" <Christopher.Ferrall@nysp.uscourts.gov>
From: "Breslin, Eric R." <ERBreslin@duanemorris.com>
Date: 06/26/2014 12:39PM
Cc: "Schwartz, Matthew (USANYS)" <Matthew.Schwartz@usdoj.gov>, "Zach, John (USANYS)" (John.Zach@usdoj.gov) <John.Zach@usdoj.gov>, "Jackson, Randall (USANYS)"

(Randall.Jackson@usdoj.gov)" <Randall.Jackson@usdoj.gov>, "Geller, Melissa S."

<MSGeller@duanemorris.com>

Subject: FW: Message from "RNP330319"

Mr. Ferrell:

Attached is our letter setting forth our comments and objections to the draft PSR on behalf of Jodi Crupi.

Eric R. Breslin
Partner

Duane Morris LLP
One Riverfront Plaza 1037 Raymond Boulevard, Suite 1800
Newark, NJ 07102-5429
P:+1 973 424 2063
F:+1 973 556 1552
C:+1 201 323 3132

ERBreslin@duanemorris.com
www.duanemorris.com

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[attachment "20140626122742330.pdf" removed by Christopher Ferrall/NYSP/02/USCOURTS]